

**HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE G.V.SEETHAPATHY**

WRIT PETITION NO.14679 OF 2006

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Between:

Ojili Venkata Subbaiah & another

..... Petitioners

AND

The District Collector-cum-District Election Authority,
Nellore District & others.

.....Respondents

:: O R D E R ::

Counsel for the Petitioners : Shri A. Chandraiah
Naidu

Counsel for Respondent Nos.1,2 and 4: Government Pleader for
Panchayat Raj

Counsel for Respondent No.3 : Government Pleader for
Revenue

Counsel for Respondent No.5 : Shri V.V. Prabhakara
Rao

Dated: 02.08.2006

Per G.S.SINGHVI, CJ

In this petition, the petitioners have prayed for issue of a mandamus to the respondents to include their names in the voters' list of Village Ravulapadu and allow them to participate in the election for the office of Sarpanch of Ravulapadu Village. They have further prayed for issue of a direction to respondent No.5 to receive their nomination papers for the office of Sarpanch.

While issuing rule nisi on 18.07.2006, the learned Single Judge directed the respondents to take action in terms of order dated 14.07.2006 passed by the Division Bench in W.P.M.P(SR).No. 73269 of 2006.

Learned Government Pleader for Panchayat Raj says that in furtherance of the direction given by the learned Single Judge on 18.07.2006, Revenue Divisional Officer and Electoral Registration Officer, Tirupati Division, Tirupati passed order dated 25.07.2006 for inclusion of the names of the petitioners in the voters' list of Ravulapadu Village. The learned Government Pleader also produced copies of orders dated 25.07.2006 passed by the Electoral Registration Officer whereby the names of the petitioners have been included at Sl. Nos. 943 and 944 of electoral roll of 136, Satyavedu Assembly Constituency in the part relating to Ravulapadu Village under sub-section (2) of Section 23 of the Representation of the Peoples Act, 1950. Copies of the orders have already been supplied to the learned counsel for the petitioners.

After going through the copies of the orders supplied by the

learned Government Pleader, Shri Chandraiah Naidu, learned counsel for the petitioners forcefully submitted that the Court may direct the respondents to entertain the nomination papers of the petitioners for the office of Sarpanch.

Although aforementioned submission of the learned counsel appears attractive, in the backdrop of the fact that the names of the petitioners have been included in the electoral roll vide orders dated 25.07.2006, we do not find any justification to accept the same and issue direction in terms of the prayer made by his client because any such direction would jeopardize the ongoing process of election and adversely affect the rights of those who had filed nomination papers as per the time schedule specified by the State Election Commission and have been found eligible to contest election for the office of Sarpanch. If the petitioners felt that the action taken by the respondents in the matter of non-inclusion of their names in the voters' list and not entertaining their nominations for the office of Sarpanch has resulted in violation of their legal or constitutional rights, then they should have amended the petition and impleaded those persons who have been found eligible to contest election to the office of Sarpanch as party respondents. Since no such step has been taken by the petitioners, we are unable to entertain their prayer.

With the above observations, the writ petition is disposed of as infructuous. However, liberty is given to the petitioners to challenge the result of election by filing appropriate petition under Section 233 of the Andhra Pradesh Panchayat Raj Act, 1994 on the ground of wrongful rejection or non-acceptance of their nomination for the office of Sarpanch.

As a sequel to disposal of the writ petition in the manner

indicated above, W.P.M.P.Nos.18284 of 2006 and 19089 of 2006
filed by the petitioners for interim orders are also disposed of as
infructuous.

G.S.SINGHVI, CJ

G.V.SEETHAPATHY, J

02.08.2006

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